

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re Donald P. Andresen

Debtor.

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Chapter 7

Case No. 05-47239

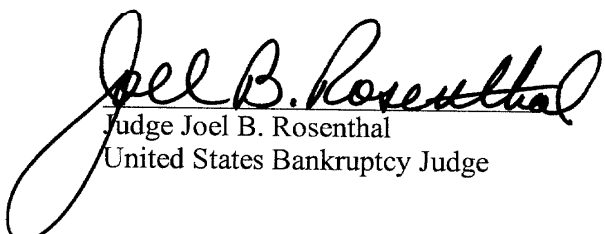
ORDER FOR RELEASE FROM INCARCERATION

Debtor has been incarcerated pursuant to an order of the Probate Court of Middlesex County Probate and Family Court for failure to pay a "judgment" rendered by the Court.

11 U.S.C. § 362(a) prohibits the "continuation . . . of a judicial . . . action or proceeding against the debtor. . . to recover a claim against the debtor that arose before the commencement of the case under this title." This Court finds the reasoning of *In re Goodman*, 277 B.R. 839 (Bankr. M.D. Ga. 2001) persuasive and finds that the incarceration of Mr. Andresen was not part of a criminal proceeding but rather a civil contempt remedy apparently at Mr. White's request, to compel payment of a judgment in his favor. Although not all civil contempt incarcerations fall under the ambit of §362(a) see *In re Lowery*, 292 B.R. 645 (Bankr. E.D. Mo. 2003) an examination of Judge Dilday's order reveals no finding by the Court that the "primary purpose in issuing the order is to uphold the dignity of a previous order" or the "court's dignity." *Lowery* at 649.

The Creditor, Robert White, is hereby ordered to forthwith take all steps necessary with the Middlesex County Probate and Family Court, with Judge Dilday, and the Middlesex County Sheriff to secure the immediate release of the Debtor, Donald P. Andresen.

Date: October 18, 2005
Worcester, MA


Judge Joel B. Rosenthal
United States Bankruptcy Judge